

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

D-1 DR. RAJENDRA BOTHRA

D-3 DR. GANIU EDU

D-4 DR. DAVID LEWIS

D-5 DR. CHRISTOPHER RUSSO,

Case No. 18-20800

Hon. Stephen J. Murphy, III

Defendants.

/

**JURY TRIAL EXCERPT: VOLUME 2**

BEFORE THE HONORABLE STEPHEN J. MURPHY, III  
United States District Judge  
Theodore Levin United States Courthouse  
231 West Lafayette Boulevard  
Detroit, Michigan 48226  
Wednesday, May 18, 2022

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(Appearances continued next page)

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Official Court Reporter

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EXHIBITS

Identification

Offered

Received

NONE

1 Detroit, Michigan

2 Wednesday, May 18, 2022

3 -- -- --

4 (Proceedings in progress at 10:37 a.m., all parties  
5 present, jury present)

6 THE COURT: Mr. Margolis on behalf of Dr. Russo will  
7 go next. Go right ahead.

8 MR. MARGOLIS: Good morning, ladies and gentlemen.  
9 My name's Larry Margolis and it's my privilege to represent Dr.  
10 Christopher Ross Russo.

11 I'm a little more old school than Mr. Chapman and Mr.  
12 Helms so I'll be speaking from the podium, which I believe  
13 Ms. -- Madame Court Reporter's shaking her head, says she  
14 appreciates.

15 I want to give you a little background to start about  
16 Dr. Russo. Christopher Russo is 53 years old. He grew up --  
17 he was born on a vacation in Milwaukee, Wisconsin, but he ended  
18 up growing up since the age of -- of one pretty much in Ann  
19 Arbor, Michigan.

20 His father, his -- his biological father I should  
21 say, is a neurosurgeon. His mother is a registered nurse  
22 originally, and then she put herself through dental school and  
23 obtained her DDS. They're in the courtroom today. That's the  
24 stepfather as well is here in support.

25 In 1976, shortly after Chris's bio -- biological

1 father finished his -- his training and -- and fellowship at  
2 the University of Michigan in -- in neurology and he was just  
3 about to start his -- going to private practice, Chris's dad  
4 abruptly left the family. His departure left Chris, his sister  
5 Kathy -- he has a younger sister Kathy, she's a nurse, they're  
6 all in health care -- his departure left Chris, Kathy and  
7 Bonnie on their to fend for themselves. Chris was deeply  
8 wounded. He was six or seven at the time. As a result, the  
9 family, like families do when they're that way, they became  
10 very close and they remain extremely close to this day.

11 Like many hard-working single mothers, Chris's mom  
12 instilled in him a strong work ethic, a determination to  
13 succeed, the desire to get the good -- the best education that  
14 he could. And Chris quickly took to science. He became laser  
15 focused on going to medical school, just like his absent  
16 father. Education was paramount in the family household. So  
17 was helping and caring for others.

18 Chris went to the University of Michigan for  
19 undergrad. He graduated and went on to the University of  
20 Michigan Medical School where he graduated in 1994. After  
21 medical school, Chris completed a four-year residency in  
22 anesthesiology at the University of Michigan. He later  
23 completed a two-year fellowship in pain medicine and then  
24 completed post-fellowship training in interventional pain  
25 medicine at the distinguished Moffett Cancer Center in South

1 Florida. He is also ACGME accredited. He has 16 years of  
2 education to practice pain. He has a passion for treating pain  
3 and he is highly trained in advanced interventional pain  
4 management.

5 But how does someone like Dr. Russo treat pain? What  
6 even is pain? Pain can be acute or it can be chronic, right?  
7 Acute pain is sudden, sharp pain. It doesn't last that long.  
8 It goes away and hopefully it doesn't come back. Chronic pain  
9 is different. Chronic pain is longstanding, beyond -- lasting  
10 beyond the usual recovery periods, something we often have to  
11 try and live with, advanced pain medicine.

12 This case involves chronic pain. The patients the  
13 government will introduce you to either did suffer from chronic  
14 pain or claimed to suffer from chronic pain. They came to the  
15 Pain Center for help with their pain, their chronic pain.

16 Diagnosing and treating chronic pain is complicated,  
17 as my young but distinguished co-counsel showed you in some of  
18 the treatments and words that he spoke. I guess I'll try to  
19 dumb it down for us, for me.

20 Where in the body does the pain originate from? What  
21 causes pain? How can we best treat it? Once treated, how long  
22 will the pain subside? Does it go away forever? When will it  
23 come back? You will see that pain therapy lessens the pain but  
24 it doesn't get rid of it entirely. We all have a different  
25 physical etiology, a different biological makeup. What may

1 work for you may not work for you -- or it may not work for me.  
2 We all have different thresholds for pain.

3 Most importantly, pain is subjective. Pain is  
4 personal to the one feeling it. There is no pain meter, no  
5 blood pressure valve we can put on to measure our pain. We  
6 only know because we're told about it. We have to rely on  
7 another person's report of their pain to understand what state  
8 of pain they're actually in. Pain is hidden. We can see  
9 people limp, we see them on crutches or -- or -- or with a  
10 cane, but we still don't know how they're feeling, right? We  
11 can't. We have to take their word for it. We have to trust  
12 them.

13 Advanced pain doctors like Dr. Russo are no  
14 different; they have to trust too. There is nothing wrong with  
15 a doctor trusting their patient. They have to, that's what  
16 they do, but we'll talk more about that in a little bit.

17 Now, the government has shown you some photographs.  
18 They may offer you some videos too. You will hear about a busy  
19 waiting room or a parking lot that was full. First, I want to  
20 say this about that. The parking lot was small and Dr. Bothra  
21 had over 60 people working for him at the Pain Center. The  
22 Pain Center itself was rather small, and I believe one of my  
23 distinguished co-counsels will show you the layout of the  
24 place. There were other businesses there too.

25 Most importantly, more importantly, I want you to

1 remember this point: pain doesn't discriminate. Millions and  
2 millions of Americans from all walks of life suffer chronic  
3 pain, all races, all ethnicities, all genders. Many are lower  
4 income.

5 It is a sad but true fact of our health care system  
6 that millions and millions of Americans don't have health care  
7 insurance or underinsured. This group, especially in our most  
8 disadvantages -- disadvantaged communities, are often low  
9 income. Medicaid is intended to cover these individuals. This  
10 group deserves access to pain specialists, just like everybody  
11 else, just like people with quality coverage. Many medical  
12 practices refuse to take Medicaid, they refuse to serve them at  
13 all. Those without private insurance, the uninsured folks,  
14 there are millions of them. They are relegated to providers  
15 that serve low or lower income populations that take Medicaid.  
16 Of course a specialized pain practice in a busy urban area is  
17 going to be busy, of course, in a building that size, in a  
18 parking lot like that, of course.

19 The government will try to use that fact that the  
20 Pain Center was crowded or busy against us. Don't let them.  
21 These are real people who came to the pain clinic with real  
22 pain and real reports of pain were made. Most were already  
23 receiving pain medication. Most were already on long-term  
24 opioid therapy.

25 It is also true that chronic pain patients are often



1 higher risks and have preexisting problems, are  
2 multisymptomatic, present with psychosocial issues. They still  
3 deserve care.

4 There is an unconscious or implicit bias toward  
5 chronic pain patients, especially toward those in our most  
6 disadvantaged communities. Please take note of this implicit  
7 bias as you hear the testimony when you judge the facts of this  
8 case. Resist stereotypes of the chronic pain patient. A pain  
9 doctor has to, Dr. Russo has to, so should you.

10 A trust relationship. The doctor/patient  
11 relationship begins with trust. Pain specialists too begin  
12 their relationships by trusting the patient; they have to.  
13 Doctors trust us when they tell them our problems. Strike  
14 that. Doctors trust us when we tell them our pain symptoms.  
15 We in turn trust doctors when it comes to medical advice. They  
16 went to med school. In Dr. Russo's case, fellowship and  
17 post-fellowship training in diagnostic and pain procedures.

18 But doctors don't know everything. They can be  
19 wrong. If we're not happy with the advice or treatment, we can  
20 always get a second opinion, ask another doctor, reject the  
21 advice, go back to our primary care provider who referred us to  
22 the specialist in the first instance, or we can try and see if  
23 it helps, stay and give it a chance.

24 The Pain Center provided elective treatment and  
25 elective pain therapies. This was not an emergency room, not

1 an ER. They offered treatment options. That's what the Pain  
2 Center did. Not every doctor is a good fit. There's usually  
3 another doctor we can go to. If we're not happy with our  
4 present doctor, what they're doing or saying, find another one.  
5 There are even doctors that take Medicare and Medicaid. Yeah,  
6 the line, the wait might be long. That's our health care  
7 system.

8 The other piece to this trust relationship is the  
9 doctor's trust of the patient. If a -- if a doctor no longer  
10 trusts a patient, the doctor is entitled to end the  
11 relationship, time to end it, time to go, the trust is gone,  
12 the relationship is broken.

13 But remember as you hear the government's case, no  
14 grown person is forced to remain in a professional  
15 relationship. No adult person is forced to keep going, keep  
16 seeing a doctor again and again for years if especially they  
17 aren't getting relief for their pain.

18 Be highly skeptical of the government's narrative  
19 here. The majority, the vast majority of Dr. Russo's pain  
20 patients did get relief from their pain. These are adults who  
21 made their own health care decisions. The evidence will show  
22 that Dr. Russo never forced any patient to receive any  
23 medication or undergo any procedures. He never performed, the  
24 evidence will show, any procedure unnecessarily. It was all  
25 part of a treatment plan, fully legal, completely within the

1 standard of care. Now, places like the Pain Center may not be  
2 the types of places or the doctors that we or you are used to  
3 seeing, but that doesn't make it illegal and it's not illegal.

4 Follow the science. That's what my learned  
5 co-counsel said or brother counsel said here today. Scrutinize  
6 the government's evidence. Don't be distracted by big dollar  
7 figures or -- or high pill counts as they will say or catch  
8 phrases that they present to you in a vacuum without context.

9 The evidence will show that Dr. Russo sought to  
10 diagnose and provide relief for pain. It was his passion, it  
11 was his education, and it was his specific intent when treating  
12 these folks. That is the only reason he sits here today,  
13 because of doing his job. He had a valid medical reason for  
14 everything he did and the records will support that.

15 How, in fact, does a pain specialist like Dr. Russo  
16 act on that specific intent of his to treat and manage chronic  
17 pain? I'll try to not redo what my brother counsel has already  
18 done here, but I think it's important to emphasize because this  
19 is -- this is complicated stuff.

20 First, the doctor diagnoses the pain, try and find  
21 out where the pain comes from, what is the underlying  
22 condition, the cause of the pain that's shooting down my leg  
23 or -- or hurting my back.

24 To do this, and -- and it's how he is charged in some  
25 of these counts, is that the government claims Dr. Russo

1 performed unnecessary facet joint injections. I think the term  
2 they're going to be spread about is facets, they call them  
3 facets. The facets is actually on the body, but the -- the --  
4 the colloquial term in the business is facets, but we'll call  
5 them facet joint injection so we don't confuse.

6 That is going to be shown to be completely untrue.  
7 He never performed any unnecessary injections. The science  
8 will support that, the records will support that. Facets were  
9 done to verify -- to seek, to verify the origin of the pain.  
10 That's what a facet injection is all about, verification. We  
11 trust what the patient says, we go verify it with the  
12 injection. It's the standard of practice. It's a standard of  
13 care. It's going on all over the country. It's legal and  
14 Medicare/Medicaid approved as well, reimbursed by all insurance  
15 companies.

16 If the pain subsides, then the doctor has diagnosed  
17 where the pain came from. If not, the doctor should try a  
18 different methodology. That's the standard of practice.  
19 That's why these folks came to the pain clinic in the first  
20 instance. They were in pain. They were in chronic pain. They  
21 all had records and objective evidence of their chronic pain.  
22 What is a pain doctor supposed to do in that situation? What  
23 is a 16-year specialist supposed to do? Pain is subjective.

24 I don't know if my brother counsel mentioned this,  
25 but there are 48 different types of possible facet joint

1 injections that could be made in the body, and that's because  
2 there are 48 different types of facets: 14 facets in the neck,  
3 24 in the -- facet joints in the thoracic spine, ten facet  
4 joints in the lumbar spine. Dr. Russo has done them all. The  
5 government is calling Dr. Russo a criminal for literally doing  
6 his job.

7           While facet joint injections are diagnostic, done to  
8 determine the origin of pain, some interventional pain  
9 procedures treat the pain. Mr. Chapman talked about  
10 radiofrequency ablation or RFA. That's done after a successful  
11 facet diagnosed the origin of the pain. RFA disables, it  
12 doesn't destroy. RFA, radiofrequency ablation, disables the  
13 nerve endings that transmit the pain signals. It lasts about  
14 six months to a year depending on the person, but the pain  
15 comes back. RFAs work and are done because they give extended  
16 relief to the area causing the pain. RFA is completely legal,  
17 a completely approved procedure like a facet joint injection,  
18 reimbursed by Medicare and Medicaid. It's what a pain  
19 specialist does. Dr. Russo is being charged for doing an RFA.  
20 They say it's unnecessary. Their records are going to debunk  
21 that. It's what a pain specialist does. Facet joint  
22 injections diagnose, RFAs treat.

23           But an RFA won't lessen pain in the other areas of  
24 the body. It only treats the particular area that the facet  
25 diagnosed, the -- the facet injection diagnosed. Often these

1 patients are multisymptomatic: they have neck pain, they have  
2 back pain, they have leg pain, they have ankle pain.

3 The RFA Dr. Russo is charged for doing was warranted  
4 by the workup, the history and physical of the patient and the  
5 symptoms. You can follow the science; Dr. Russo always did.

6 There's a host of other specialized pain procedures  
7 that Dr. Russo performed. He's well versed in them all and  
8 regularly did them while at the Pain Center.

9 Government claims that every patient had the same  
10 treatment plan, the same treatment protocol. That's part of  
11 their -- their narrative here, their -- their false narrative.  
12 The evidence will show that is false. Treatment plans varied  
13 from patient to patient. Mr. Chapman spoke about it with Dr.  
14 Lewis. It's the same thing with Dr. Russo. They were  
15 particularized to that patient's needs.

16 Yes, some treatment plans may look similar. Lower  
17 back pain is quite common, the most common reason people  
18 present to a pain clinic such as the Pain Center. A similar  
19 treatment plan for a similarly situated patient does not show  
20 fraud, does not show fraud. It shows consistent and sound  
21 practices to treat a common chronic pain condition.

22 Government has mentioned the Pain Center prescribed  
23 back braces or durable medical equipment. Back braces are  
24 simply another option in the pain specialist's treatment  
25 arsenal to treat back pain. Occasionally Dr. Russo provided

1 back braces. There's nothing criminal there. Dr. Russo always  
2 gave his patients a choice and the patient was always able to  
3 refuse. Pain is complicated. The relief of pain is  
4 complicated. A back brace may help you but not me. Why should  
5 a pain doctor not offer someone with back pain a back brace?  
6 One of the lawyers in the courtroom is wearing a back brace.  
7 There is absolutely nothing wrong with a pain doctor offering a  
8 patient a back brace for back pain.

9           Importantly, Dr. Russo had no financial incentive to  
10 order back braces. He received no bonus, no extra pay. He  
11 didn't really have any financial incentive to order any of the  
12 ancillary services in this matter: back braces, physical  
13 therapy, drug testing. He didn't get extra money for that.  
14 There was no reason that he would say, "Oh, just hand them out,  
15 I'm gonna get -- gonna get rich from this." No. The pay was  
16 the same for him. He did it because there was a medical reason  
17 to do it or he didn't do it at all. That's what's going on  
18 with Dr. Russo in his care. Prescribing a back brace is  
19 100 percent within the standard of care for treating back pain.

20           We've talked a bit about procedures that Dr. Russo  
21 would perform. Some are diagnostics, the facets; some are  
22 therapeutic, RFA, radiofrequency ablation. Now let's talk a  
23 little bit about prescriptions. The government makes great hay  
24 with the fact that pain specialists working at a busy pain  
25 clinic prescribed a large number of controlled substances over

1 the years.

2 First a bit of history on the treatment of pain and  
3 other ailments by opioids and opioid derivatives. Much of this  
4 you guys like -- probably likely know but I think it's worth  
5 stating for context. Opium and opium derivatives have been  
6 used for thousands of years. 8000-year-old archeologists --  
7 8000-year-old clay tablets were found by archeologists that had  
8 prescriptions for opium written on them. Inscribed in the clay  
9 in 8000-year-old tablets was a prescription for opium. Opium  
10 was used by the ancient Greeks, Romans, Egyptians, people in  
11 the Middle Ages, all through Renaissance time in -- in Europe.

12 In the early U.S. opium was approved medication for  
13 all sorts of maladies. Doctors prescribed low doses for  
14 children. It was a panacea for all sorts of ailments. One of  
15 our Founding Fathers, Thomas Jefferson, who was skeptical of  
16 medical treatments of his day, took opium for his chronic  
17 dysentery, and made him feel so much better he ended up growing  
18 poppies on his Monticello estate.

19 Morphine was sold over the counter in soothing syrups  
20 for fussy children.

21 THE COURT: Let's stick with the --

22 MR. MARGOLIS: Thank you, Judge.

23 THE COURT: -- facts -- facts of the case there, Mr.  
24 Margolis. Go right ahead.

25 MR. MARGOLIS: Thank you.



1           Today we don't treat cholera, dysentery, smallpox  
2     with opium. It does, however, remain an important and approved  
3     treatment protocol, treatment therapy for chronic pain. Opioid  
4     therapy, long-term opioid therapy is an effective tool to  
5     lessen pain. It is within the standard of care for doctors to  
6     prescribe, including chronic pain patients.

7           But treatment by opioids doesn't cure the problem.  
8     The effects wear off, the pain comes back. Controlled  
9     substances treat, they don't cure. The goal, as Mr. Chapman  
10    said, of interventional pain medicine is to intervene, where's  
11    the pain come from, to use every available tool in the modern  
12    medical arsenal to find the pain, relieve the pain, to attempt  
13    a myriad of treatments, to manage the pain. That's the goal,  
14    that's the intent here.

15           It should not -- should not surprise us that a pain  
16    specialist prescribes medication that has been used for  
17    thousands of years. That's why the primary care provider and  
18    other doctors refer their chronic pain patients to places like  
19    the Pain Center: to manage pain in a multidisciplinary fashion;  
20    to reduce dependence on opioid therapy with interventional pain  
21    procedures; to lower the doses; to provide other treatment  
22    options: physical therapy, back braces, facets, RFA, Rhizotomy,  
23    nerve blocks, trigger -- trigger point injections. Find the  
24    cause of the pain, treat the source, manage the symptoms of  
25    pain.

1           There is no one perfect option. There is no  
2 one-size-fits-all. Pain specialists don't just do opioid  
3 therapy. That's not why they're coming. That's not why  
4 they're sent there. They don't just do injections. Trying a  
5 course of both is not illegal. It is not outside the standard  
6 of care. It is sound medical practice.

7           That's why it's the government's theory that these  
8 patients were forced or somehow unlawfully induced to -- to --  
9 to do this to get that. The government will never admit to you  
10 that it's perfectly legal to do both, it's perfectly legal to  
11 do both. It's called following a care plan or a plan of care.  
12 I'll say it both ways. It's perfectly legal, wholly in the  
13 standard of practice, accepted and undertaken every day in  
14 every state in our country. It's going on right now. Be  
15 highly skeptical of the government's narrative. Follow the  
16 science. Don't be fooled by big numbers of controlled  
17 substances prescribed over the course of years or high dollar  
18 figures.

19           The Pain Center was a multidisciplinary practice with  
20 over 60 employees. It had six doctors, a psychiatrist, a  
21 chiropractor, addictionologist, physical therapist, RNs, MAs,  
22 PAs and a large administrative staff. That's a lot of  
23 overhead. It was situated in an urban community filled with a  
24 large number of disadvantaged and uninsured citizens, all who  
25 claimed to suffer from chronic pain, all who had their chronic

1 pain verified.

2 The government wants you to disregard all that, all  
3 those people working there, working for the pain patients, and  
4 they'll say, "Look at this, look at the prescriptions, look at  
5 all the money made." I'm asking you all to follow the science,  
6 look at the records, look at the charge, listen to the witness  
7 describe the pain they feel, the pain they've had. That's what  
8 Dr. Russo did. He treated his patients in good faith, exactly  
9 as he was educated and trained to do, every one of them.

10 Speaking of science, I want another -- make -- I want  
11 to make another point that may come up during this trial. It  
12 is true that the Pain Center didn't practice holistic medicine.  
13 Nothing in the law you will hear, the CDC guidelines or any  
14 local coverage determinations from any of the insurance  
15 regulators, nothing requires doctors, pain doctors or any  
16 doctor for that matter to practice holistic or spiritual  
17 healing to heal pain. Holistic and spiritual healing is one  
18 way that people treat a variety of ailments. Dr. Russo didn't  
19 practice holistic medicine. He was not a spiritual healer. He  
20 practiced the way he was taught at the University of Michigan  
21 Medical School, during his residencies, his fellowship, his  
22 post-fellowship accreditation. New Age medicine has its place,  
23 has its place in treating pain, but it is unlikely to relieve  
24 the chronic pain caused from metal screws in your back or neck.

25 I want to talk a little bit about how Dr. Russo came

1 to be working at the Pain Center with the other folks here.  
2 One answer: Dr. Ron Kufner. Government spoke briefly about Dr.  
3 Kufner. Dr. Russo and Dr. Kufner trained together years ago at  
4 the Moffett Cancer Center in South Florida. They were there  
5 working on treating cancer pain patients. They became friends,  
6 stayed close over the ensuing years, kept in touch, how you  
7 doing, where you working, that kind of thing.

8 In May of 2014 Dr. Kufner started working with Dr.  
9 Bothra at the Pain Center. At this time Chris was at a private  
10 clinic in Grand Rapids. Chris thought highly of Dr. Kufner's  
11 skills. He trusted him as a doctor to inject people. Shortly  
12 after Kufner joined Dr. Bothra, he tried to get his friend  
13 Chris, "Come on over, join me, I have a new job. Dr. Bothra's  
14 trying to enlarge his practice. We -- we could use someone  
15 with your skill set." Kufner made a real hard sell. This is  
16 2014. Kufner made a real hard sell, and Chris agreed to go out  
17 and visit, check the place out.

18 Chris traveled from Grand Rapids to Detroit to -- to  
19 see and check out the practice and meet Dr. Bothra. This was  
20 the first time Dr. Russo had met Dr. Bothra, and Dr. Bothra  
21 made quite an impression on him. He had a large staff. He had  
22 photographs of himself with Mother Teresa shaking hands, some  
23 high-level figures in the country and outside the country. It  
24 was -- it was a very impressive place. Dr. Bothra was an  
25 impressive man to Dr. Russo.

1           And Dr. Bothra spoke about at this time that he  
2           wanted to expand. He -- he planned on expanding the place  
3           and -- and adding a surgical center, and that was one of the  
4           reasons he was so interested in -- in bringing Dr. Russo over,  
5           and Dr. Kufner knew this and they talked about it. Again, he  
6           liked the fact of -- of -- of Dr. Russo's training, his  
7           accreditation.

8           A job was offered to him on the spot, 2014.  
9           Government's indictment is 2013. Christopher was in Grand  
10          Rapids still in 2013. He was in Grand Rapids in 2014. He was  
11          in Grand Rapids in 2015. He was in Grand Rapids up until June  
12          of 2016.

13          So anyway, back to Kufner. Chris didn't take the  
14          job. He didn't love where he was working in Grand Rapids but  
15          he wasn't ready to leave either. He had just bought his first  
16          condominium, his first property at the age of 46. He had a  
17          girlfriend, he had a bunch of friends there. He -- he -- he  
18          liked being by the lake. Yeah, his family was in -- in this  
19          part of the state in Southeastern Michigan. He's a huge Lions  
20          fan, Tigers fan. And he spent a year doing his -- his rounds  
21          during his residency or rotation in downtown Detroit and he  
22          liked that too. So he was a little torn but he just wasn't  
23          ready. So he said to -- to his buddy Ron, he said, "Ron,  
24          thanks but no thanks. I think I'm going to stay put. I'll see  
25          if this works out at my place in Grand Rapids."

1 Ron Kufner was persistent. He continued to recruit  
2 Chris, tried to get him to come on over. Two years later,  
3 we're in 2016 now, Kufner contacted Dr. Russo and -- and --  
4 and -- and I don't want to say begged, but he urged him to meet  
5 with Dr. Bothra's business manager, a man named James Jayakar.  
6 Now, Russo, Dr. Russo didn't know Mr. Jayakar but Dr. Kufner  
7 did well and Dr. Kufner vouched for him and he -- he said,  
8 "Just meet him, he -- he wants to -- he wants to talk with you  
9 and -- and -- and really, really put a hard sale on you."

10 And Dr. Russo said, "Okay. But, you know, I -- I --  
11 I drove down there and I -- I've seen the place and I'm -- you  
12 know, I -- I -- I don't want to do that again." And Dr. Kufner  
13 said, "Don't worry, he wants to take you out to dinner. He's  
14 going to drive out to Grand Rapids from Detroit or -- or  
15 where -- in the metro area to see you and talk to you about  
16 this."

17 So that's what happened. Dr. or Mr. Jayakar drove  
18 across the state, took Dr. Russo out for a fancy dinner. At  
19 the dinner Dr. Russo accepted Dr. Bothra's offer. This was in  
20 late May or maybe the first part of June. He started working  
21 that next week, June 6th of 2016. That's the date Dr. Russo  
22 joined Dr. Bothra's practice at the Pain Center.

23 And for the next year and a half Dr. Russo and Dr.  
24 Kufner both worked at the Pain Center together. Dr. Russo  
25 signed on as an independent contractor, and as promised by Dr.

1 Kufner, Jayakar and Bothra when he had spoken to him before,  
2 Dr. Russo was allowed to practice in his own way, under the  
3 Pain Center umbrella, of course, but his own way to practice.

4 Transition was not always easy. It was a new  
5 environment. It was much busier, more crowded than the place  
6 he had worked at in Grand Rapids, very fast paced. Took him a  
7 minute to get up to speed. And some of the patients could be  
8 challenging, of course. And Dr. Bothra was a very hard worker,  
9 he could be demanding. But Dr. Russo was able to practice  
10 medicine the way he was trained, his own way. Dr. Bothra  
11 permitted his doctors to do that. He actually encouraged his  
12 doctors to do that.

13 But unlike in Grand Rapids, Dr. Russo had  
14 independence here now. He liked being considered an  
15 independent contractor. He had never been a 1099 contract  
16 employee before, his own boss. Yeah, he was responsible for  
17 paying his own taxes and he didn't like that very much, and he  
18 had to provide for his own health insurance and he didn't get a  
19 4041k or any retirement plan from Dr. Bothra. But being a 1099  
20 employee internally -- internalized. It -- it -- it gave him a  
21 sense of separation, independence, the freedom to do things his  
22 own way.

23 He created his first LLC, his own private independent  
24 company separate from Dr. Bothra and the others. Dr. Bothra's  
25 staff, large staff that he had, did all -- handled all the

1 billings, all the business matters, licensing, credentialing,  
2 took care of his malpractice insurance, all the red tape that  
3 goes along with being in the practice of medicine.

4 THE COURT: I think it's better if the jurors saw the  
5 evidence of this rather than hearing your --

6 MR. MARGOLIS: Okay.

7 THE COURT: -- testimony about it, Mr. Margolis, so  
8 if we could kind of maybe talk about what the overall evidence  
9 is going to show in terms of relevant --

10 MR. MARGOLIS: That's fine.

11 THE COURT: Go ahead.

12 MR. MARGOLIS: Thank you, Judge.

13 The evidence is going to show that Dr. Russo's good  
14 friend, Ron Kufner, started to have problems with Dr. Bothra,  
15 and Chris was aware of this. This is -- I think, I believe the  
16 government will show or we will show, it'll be part of this  
17 case, that it was in 2017 that Dr. Kufner started talking about  
18 leaving Dr. Bothra, and Chris knew this. He had spoken to --  
19 to Dr. Kufner. They were -- they were good friends. Dr.  
20 Kufner was the one who got him there, remember. And he never  
21 told him why. Chris is like, "What's going on? Why -- what's  
22 going on with you and -- and -- and Dr. Bothra?" And Dr.  
23 Kufner would tell Chris, "Well, it's just between him and I.  
24 It's a business matter. It's about money that's owed. It  
25 doesn't concern you. It doesn't concern you. It's about me



1 and Dr. Bothra."

2 So Chris knew Kufner may be leaving. What Dr. Russo  
3 didn't know is that Dr. Kufner's leaving could impact him. And  
4 Dr. Russo didn't know why Kufner was specifically leaving. Dr.  
5 Kufner never told Chris. Dr. Kufner never told Chris that he  
6 was making secret recordings and working with the federal  
7 government to take down the whole practice and Chris too. He  
8 failed to mention that fact when he was speaking to his old  
9 friend. Dr. Kufner had convinced Chris to uproot his life,  
10 change his career and move from the other side of the state,  
11 and he secretly plotted to take down the practice.

12 Dr. Kufner will come before you soon to testify in  
13 this case against his old friend, Dr. Russo. When Mr. Kufner  
14 now does, please remember his secret lawsuit that he prepared  
15 and didn't tell Dr. Russo or anybody at the practice about  
16 while he was working there. Please remember his deception to  
17 his old friend, his self-interest, and most importantly, please  
18 remember the future sentencing he will be facing in this very  
19 courtroom for the crimes he committed.

20 Dr. Kufner's betrayal of Dr. Russo is the saddest  
21 aspect of this case. His testimony against his old friend will  
22 be a shameful --

23 THE COURT: Argumentive --

24 MR. MARGOLIS: Sorry, Judge.

25 THE COURT: -- Mr. Margolis. Go ahead please.

1 MR. MARGOLIS: The other Pain Center doctor who will  
2 testify for the government is Dr. Backos. We don't have much  
3 to say about Dr. Backos because his practice was entirely  
4 separate from Chris's, from Dr. Russo's.

5 And I -- I should mention I -- I -- I skipped ahead  
6 about Dr. Kufner. Dr. Kufner worked on his own too. He was at  
7 Eastpointe. That was five miles from where Dr. Russo worked.  
8 They had separate practices. Kufner was his own man, just like  
9 Dr. Russo, but Kufner was able to do it out of view. That's  
10 what was going on at Eastpointe with Dr. Kufner. That's why  
11 you will see, you will hear that he took the plea of guilty  
12 that he did.

13 Back to Dr. Backos. Dr. Backos, like Kufner, saw his  
14 own patients. Unlike Dr. Russo, Dr. Backos was not a pain  
15 specialist. He was an addictionologist.

16 One important point that I want you to remember about  
17 Backos, Backos was with Dr. Bothra since 2012. Dr. Russo  
18 arrived in 2016. Dr. Backos when he testifies you will hear  
19 pled guilty to crime, a crime, not crimes he committed, but a  
20 independent crime he committed in 2014, two years before, over  
21 two years before Dr. Russo arrived. Dr. Backos pled to  
22 unlawfully prescribing one individual count, not conspiracy,  
23 one individual count of unlawfully prescribing narcotics or  
24 controlled substances.

25 Backos, the evidence will show, was also known to

1 prescribe in high doses like Dr. Kufner. It is not surprising  
2 he pleaded guilty to doing so too. We don't expect Dr. Backos  
3 to offer much evidence relevant to Dr. Russo notwithstanding  
4 his incentive to avoid a lengthy prison sentence.

5 Dr. Kufner and Dr. Backos are not the only doctors  
6 the government will use to try and meet its heavy burden in  
7 this case. There will be two others, and I won't spend much  
8 time on them. First is Dr. Patel. I believe they mentioned  
9 Dr. Patel in their opening statement. Fresh out of -- fresh  
10 out of his residency when he joined the Pain Center, he signed  
11 on at a higher pay than Dr. Russo and I believe most of the  
12 others. Most importantly, he had never worked -- and they  
13 admitted this or they said it as well I believe -- Patel had  
14 never worked in a private practice before.

15 What they didn't mention and I believe the evidence  
16 will show is that Patel favors a holistic or New Age approach  
17 to the treatment of chronic pain. Nothing's wrong with that,  
18 nothing is wrong with that, but I think it's important to note  
19 that his philosophy is vastly different than most others when  
20 it comes to treatment of chronic pain.

21 Some similarities Patel has with Kufner. Patel, like  
22 Kufner, the evidence will show, filed a secret lawsuit against  
23 Dr. Bothra, the Pain Center and others. Dr. Kufner's secret  
24 lawsuit, and I -- I skipped over this by accident, didn't --  
25 wasn't brought against Dr. Russo. He only sued Dr. Bothra and

1 the Pain Center. Dr. Patel brought his lawsuit against  
2 everybody, which is very strange because he didn't even really  
3 know Dr. Russo. Patel never -- the evidence will show Patel  
4 never shadowed Dr. Russo. Patel was never trained by Dr.  
5 Russo. Dr. Patel never sat in on any meeting or patient  
6 consult with Dr. Russo. The evidence will show Dr. Patel was  
7 at the Pain Center for a very short time and he immediately  
8 started capitalizing on it.

9 But Patel, the evidence will show, and all his  
10 contriving also provides an important truth, an important fact  
11 for your jury's consideration, for your all's consideration of  
12 the evidence, he provides a telling admission. First a little  
13 background that the evidence will show. Patel called the  
14 government, I believe Mr. Helms said, on his first day of work  
15 or in the first week of work he called the government to -- to  
16 say, "What's -- this is weird. What's going on here?"

17 Soon after, he starts recording his interactions with  
18 staff and the doctors. He starts recording his interactions  
19 with patients, confidential communications, mind you. He stays  
20 in contact with the government over the next days and weeks.  
21 The evidence will show he communicates with the FBI via phone,  
22 via -- via text, phone, and plans a meeting.

23 But then Dr. Patel has a change of heart. He cancels  
24 an upcoming meeting with the FBI. "I was wrong. The doctors  
25 at the Pain Center can practice independently, can practice in

1     their own fashion. Bothra allows for it."

2             MR. HELMS: Your Honor, I'm -- I'm sorry. I have to  
3     object. This is -- this is misstating any evidence that will  
4     come in in this case.

5             THE COURT: Well, I don't know, I don't know. He  
6     says that it's going to be the evidence in the case, and he's  
7     leading the jury through the evidence that he expects it to  
8     show. If it doesn't, the jury will note that and act  
9     accordingly. So that's overruled.

10            Let's continue.

11            MR. MARGOLIS: Thank you, Judge.

12            That's what we expect the evidence to show and it's  
13     what was fact: the doctors at the clinic were independent, able  
14     to use their own judgment. This is what their star witness  
15     advised we believe the evidence will show.

16            He made this call to the FBI, the evidence will show,  
17     while he was working with them. This fact creates a gaping  
18     hole in the government's narrative. Independent judgment in  
19     the treatment of patients is the opposite of a conspiracy, and  
20     it was said, if it was said, while the man was working for the  
21     government, so he had no reason to lie. Remember that  
22     admission when he testifies.

23            The last doctor to testify for the government will be  
24     Dr. Mehta. Dr. Mehta was hired by the prosecutor years after  
25     all the facts in this case took place. The government is

1 paying to fly him in from New York City and has a specially  
2 date set for him. Mehta, like Patel -- Dr. Mehta works in a  
3 large hospital. He has no experience, no great experience in  
4 private practice I don't believe, let alone one in a community  
5 like the Pain Center served.

6 Dr. Mehta will offer his opinion about Dr.'s Russo --  
7 Dr. Russo's treatment of two patients named in the indictment,  
8 MM and -- and DS. Those counts involving two patients are the  
9 only specific allegations the government makes against Chris in  
10 the entire 38-page, 57-count indictment. Dr. Mehta will not  
11 offer any competent or convincing evidence relative to Dr.  
12 Russo's care of those two patients. Nothing Mehta says  
13 specific to Dr. Russo will show any crime.

14 We didn't have to travel to New York City to find our  
15 expert. Ours is local, a man named Anthony Chiodo. Dr.  
16 Anthony Chiodo will come and testify to his opinions about Dr.  
17 Russo's care of those two patients. Dr. Chiodo has extensive  
18 experience and impeccable qualifications, U of M professor  
19 who's going to put his hard-earned reputation on the line in  
20 front of you all. He will tell you Dr. Russo's care and those  
21 only two specific patients in the charging document was sound,  
22 was reasonable within the standard of practice.

23 Importantly, Dr. Chiodo will emphasize the role of  
24 the advanced pain practitioner relative to utilizing as many  
25 effective pain strategies as possible to mitigate the high --

1 the need for high doses of pain medication. That's the reason  
2 you do the various strategies. You try the different  
3 treatments. The government is attacking these folks, Dr.  
4 Russo, this clinic, for trying different treatment, trying  
5 different strategies. Dr. Chiodo will debunk that false  
6 narrative.

7 I've spoken too long. I will not discuss much more  
8 about what we expect the other patients of the pain clinic to  
9 testify to. I will offer this fact about the patient  
10 witnesses, and I believe Mr. Chapman also did, so we're just  
11 reemphasizing. Every one of them came to the Pain Center --  
12 every one of them that came to the Pain Center had chronic  
13 pain.

14 Every patient witness Dr. Russo saw had their chronic  
15 pain verified.

16 Every patient who received controlled substances from  
17 Dr. Russo was in pain and claimed to be in pain.

18 Every patient signed an opioid agreement. Mr.  
19 Chapman put that up on the screen. That's the procedure,  
20 that's the practice.

21 Most every patient already had a long history of  
22 opioid therapy.

23 Every patient had their MAPS run. I don't believe  
24 that has been mentioned yet, but MAPS is the Michigan program  
25 to see what else this person might be taking. It's an instant

1 program where a doctor can ask a nurse or press a button and  
2 see a breakdown of everything this person's been prescribed in  
3 the last two years I believe.

4 So they didn't get their pain medication handed out  
5 to them. They had to have their MAPS run. They had an exam.  
6 They had problems that the doctor was trying to treat, every  
7 one of them, before they got their prescription.

8 You know who you won't see as patient witnesses?  
9 Young people like some of you here today. It's interesting.  
10 You won't see known drug dealers. You won't see people who  
11 obtained drugs from any other doctor or employee outside of the  
12 Pain Center or outside of the Eastpointe clinic. They went in,  
13 saw the doctor, expressed their pain, had their MAPS run, low  
14 dose opioid therapy, drug testing to ensure compliance, verify  
15 through imaging and procedures. That's the science, that's  
16 what pain specialists do. I'm just dumbing it down, they're  
17 much smarter than I am, but that's what they do. If you follow  
18 the science, the records of every patient will demonstrate Dr.  
19 Russo provided good care, sound medicine.

20 I will conclude -- fortunately, right? -- with a bit  
21 about your role in this trial. Now, the Court is going to  
22 instruct you on the law and it's vitally important that we  
23 follow it. As the good judge has indicated, your role  
24 pertaining to Dr. Russo is to judge him, the evidence against  
25 him individually, his case, his care of his patients, of his



1 care patients, independent from the others. What, if anything,  
2 will the actual evidence show which specifically pertains to  
3 Dr. Russo? What do the records show of his care? That is all  
4 that matters here for us. I represent Christopher Russo. That  
5 is all you should focus on as you think about Chris.

6 This is a complicated case. There are four  
7 defendants. We're dealing with unusual and arcane subject  
8 matter. Your task is enormous. My job, in part, if you can't  
9 tell, is to try to simplify it for you. So I will finish not  
10 by telling you what the vast and often I believe misleading  
11 evidence the government will present to you shows. I will  
12 conclude by telling you what it will not show.

13 The government will present video evidence, they --  
14 they spoke about it in their opening, to try and meet their  
15 heavy burden in this case. There will be --

16 THE COURT: Mr. -- Mr. Margolis, this is like --  
17 you're -- you're on to like 50 minutes here.

18 MR. MARGOLIS: I'm --

19 THE COURT: Let's wrap it up please.

20 MR. MARGOLIS: I'm wrapping it up, Your Honor.

21 THE COURT: Come on now.

22 MR. MARGOLIS: I'm really almost done.

23 THE COURT: Yeah. Come on now.

24 MR. MARGOLIS: There will be no video evidence of Dr.  
25 Russo in this case.

1           The government spoke about audio recordings that it  
2           wants to present, that it will present to try to meet their  
3           high burden. There will be no audio recordings of Dr. Russo in  
4           this case.

5           The government will call dozens of witnesses in an  
6           attempt to meet their high burden. Many of them he never  
7           treated, never saw.

8           Your role here is to judge Dr. Russo by what they can  
9           actually prove to you that he did and prove to your  
10          satisfaction beyond a reasonable doubt. This case is going to  
11          be littered with doubt, holes gaping.

12          He can't be found guilty of these horrendous crimes  
13          simply because of his working at the Pain Center. They can  
14          prove he's a short-term employee, contract employee in a  
15          high-volume pain clinic who treated difficult chronic pain  
16          patients in a struggling community. That is all they'll be  
17          able to prove against Dr. Russo, and we will stipulate to those  
18          facts.

19          In a case of this magnitude with these horrendous  
20          crimes charged against him, you should expect your government  
21          to come with overwhelming evidence of Dr. Russo's individual  
22          criminality. They won't come close, they can't. It just  
23          didn't happen. We are here fighting for Dr. Russo 's life. He  
24          is an innocent man. Your role is to ensure justice is done by  
25          him, justice for Dr. Russo. Thank you.

1 THE COURT: All right. Thank you very much, Mr.  
2 Margolis.

3 (Excerpt concluded at 11:33 a.m.)

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C E R T I F I C A T I O N

I, Linda M. Cavanagh, Official Court Reporter of the United States District Court, Eastern District of Michigan, appointed pursuant to the provisions of Title 28, United States Code, Section 753, do hereby certify that the foregoing pages 1 through 35 comprise a full, true and correct transcript of the proceedings taken in the matter of United States of America vs. D-1 Rajendra Bothra, D-3 Ganiu Edu, D-4 David Lewis and D-5 Christopher Russo, Case No. 18-20800, on Wednesday, May 18, 2022.

s/Linda M. Cavanagh  
Linda M. Cavanagh, RDR, RMR, CRR, CRC  
Federal Official Court Reporter  
United States District Court  
Eastern District of Michigan

Date: July 14, 2022  
Detroit, Michigan